

FUNDING FOR BURYING UTILITY LINES

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allows a county, city, or town legislative body to impose a local sales and use tax to bury utility lines.

Highlighted Provisions:

This bill:

- ▶ allows a county, city, or town legislative body to impose a sales and use tax;
- ▶ establishes a maximum tax rate for the tax;
- ▶ requires collections from the sales and use tax be used only to bury certain utility lines; and
- ▶ provides for the administration, collection, and enforcement of the tax.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

ENACTS:

59-12-2301, Utah Code Annotated 1953

59-12-2302, Utah Code Annotated 1953

59-12-2303, Utah Code Annotated 1953

59-12-2304, Utah Code Annotated 1953



28 59-12-2305, Utah Code Annotated 1953

29 59-12-2306, Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section 59-12-2301 is enacted to read:

33 **Part 23. Utility Line Sales and Use Tax Act**

34 **59-12-2301. Title.**

35 This part is known as the "Utility Line Sales and Use Tax Act."

36 Section 2. Section 59-12-2302 is enacted to read:

37 **59-12-2302. Definitions.**

38 As used in this part:

39 (1) "Annexation" means an annexation to:

40 (a) a county under Title 17, Chapter 2, Part 2, County Annexation; or

41 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

42 (2) "Annexing area" means an area that is annexed into a county, city, or town.

43 (3) "Utility line" means an electrical transmission line or a telephone transmission line.

44 Section 3. Section 59-12-2303 is enacted to read:

45 **59-12-2303. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
46 **from the tax -- Administration, collection, and enforcement of tax by commission --**
47 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

48 (1) (a) Subject to the other provisions of this section and except as provided in
49 Subsection (2), a county, city, or town legislative body may impose a sales and use tax of up to
50 .10% on the transactions:

51 (i) described in Subsection 59-12-103(1); and

52 (ii) within the county, city, or town.

53 (b) A county, city, or town legislative body that imposes a tax under Subsection (1)(a)
54 may only expend the revenues collected from the tax to bury utility lines.

55 (c) For purposes of this Subsection (1), the location of a transaction shall be
56 determined in accordance with Sections 59-12-211 through 59-12-215.

57 (d) For purposes of this section, a county legislative body may only impose a tax under
58 this part within the unincorporated area of the county.

59 (2) (a) A county, city, or town legislative body may not impose a tax under this part on:

60 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

61 are exempt from taxation under Section 59-12-104; and

62 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food

63 ingredients.

64 (b) A county, city, or town legislative body imposing a tax under this part shall impose

65 the tax on amounts paid or charged for food and food ingredients if the food and food

66 ingredients are sold as part of a bundled transaction attributable to food and food ingredients

67 and tangible personal property other than food and food ingredients.

68 (3) To impose a tax under this part, a county, city, or town legislative body shall obtain

69 approval by a majority vote of the members of the county, city, or town legislative body.

70 (4) The commission shall, on a monthly basis, transmit revenues collected within a

71 county, city, or town from a tax under this part to the county, city, or town legislative body by

72 electronic funds transfer.

73 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,

74 collect, and enforce a tax under this part in accordance with:

75 (i) the same procedures used to administer, collect, and enforce the tax under:

76 (A) Part 1, Tax Collection; or

77 (B) Part 2, Local Sales and Use Tax Act; and

78 (ii) Chapter 1, General Taxation Policies.

79 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

80 (6) The commission shall retain and deposit an administrative charge in accordance

81 with Section 59-1-306 from the revenues the commission collects from a tax under this section.

82 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if a county, city, or town

83 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or

84 change shall take effect:

85 (A) on the first day of a calendar quarter; and

86 (B) after a 90-day period beginning on the date the commission receives notice meeting

87 the requirements of Subsection (7)(a)(ii) from the county, city, or town.

88 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

89 (A) that the county, city, or town will enact or repeal a tax or change the rate of the tax

90 under this part:

91 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

92 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

93 (D) if the county, city, or town enacts the tax or changes the rate of the tax described in
94 Subsection (7)(a)(ii)(A), the rate of the tax.

95 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
96 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
97 take effect on the first day of the first billing period that begins after the effective date of the
98 enactment of the tax or the tax rate increase.

99 (ii) If the billing period for a transaction begins before the effective date of the repeal
100 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
101 decrease shall take effect on the first day of the last billing period that began before the
102 effective date of the repeal of the tax or the tax rate decrease.

103 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
104 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
105 described in Subsection (7)(a)(i) takes effect:

106 (A) on the first day of a calendar quarter; and

107 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
108 rate of the tax under Subsection (7)(a)(i).

109 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
110 commission may by rule define the term "catalogue sale."

111 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
112 on or after July 1, 2012, the annexation will result in the enactment, repeal, or change in the
113 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
114 effect:

115 (A) on the first day of a calendar quarter; and

116 (B) after a 90-day period beginning on the date the commission receives notice meeting
117 the requirements of Subsection (7)(d)(ii) from the county, city, or town that annexes the
118 annexing area.

119 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

120 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the

121 enactment, repeal, or change in the rate of a tax under this part for the annexing area:

122 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

123 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

124 (D) if the county, city, or town enacts the tax or changes the rate of the tax described in

125 Subsection (7)(d)(ii)(A), the rate of the tax.

126 (e) (i) If the billing period for a transaction begins before the effective date of the
127 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a
128 tax rate increase shall take effect on the first day of the first billing period that begins after the
129 effective date of the enactment of the tax or the tax rate increase.

130 (ii) If the billing period for a transaction begins before the effective date of the repeal
131 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
132 decrease shall take effect on the first day of the last billing period that began before the
133 effective date of the repeal of the tax or the tax rate decrease.

134 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
135 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
136 described in Subsection (7)(d)(i) takes effect:

137 (A) on the first day of a calendar quarter; and

138 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
139 Subsection (7)(d)(i).

140 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
141 commission may by rule define the term "catalogue sale."

142 Section 4. Section **59-12-2304** is enacted to read:

143 **59-12-2304. Seller or certified service provider reliance on commission**
144 **information.**

145 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
146 imposed under this part if the seller's or certified service provider's failure to collect the tax is
147 as a result of the seller's or certified service provider's reliance on incorrect data provided by
148 the commission in a database created by the commission:

149 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

150 (2) indicating the taxability of tangible personal property, a product transferred
151 electronically, or a service.

152 Section 5. Section **59-12-2305** is enacted to read:

153 **59-12-2305. Certified service provider or model 2 seller reliance on commission**
154 **certified software.**

155 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
156 service provider or model 2 seller is not liable for failing to collect a sales and use tax required
157 under this part if:

158 (a) the certified service provider or model 2 seller relies on software the commission
159 certifies; and

160 (b) the certified service provider's or model 2 seller's failure to collect a sales and use
161 tax required under this part is as a result of the seller's or certified service provider's reliance on
162 incorrect data:

163 (i) provided by the commission; or

164 (ii) in the software the commission certifies.

165 (2) The relief from liability described in Subsection (1) does not apply if a certified
166 service provider or model 2 seller incorrectly classifies an item or transaction into a product
167 category the commission certifies.

168 (3) If the taxability of a product category is incorrectly classified in software the
169 commission certifies, the commission shall:

170 (a) notify a certified service provider or model 2 seller of the incorrect classification of
171 the taxability of a product category in software the commission certifies; and

172 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
173 model 2 seller is liable for failing to collect the correct amount of sales and use tax under this
174 part on the incorrectly classified product category if the certified service provider or model 2
175 seller fails to correct the taxability of the item or transaction within 10 days after the day on
176 which the certified service provider or model 2 seller receives the notice.

177 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
178 item or transaction within 10 days after the day on which the certified service provider or
179 model 2 seller receives the notice described in Subsection (3), the certified service provider or
180 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
181 item or transaction.

182 Section 6. Section **59-12-2306** is enacted to read:

183 **59-12-2306. Purchaser relief from liability.**

184 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
185 under Section 59-1-401 for failure to pay a sales and use tax due under this part or an
186 underpayment if:

187 (i) the purchaser's seller or certified service provider relies on incorrect data provided
188 by the commission:

189 (A) on a tax rate;

190 (B) on a boundary;

191 (C) on a taxing jurisdiction; or

192 (D) in the taxability matrix the commission provides in accordance with the agreement;

193 or

194 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
195 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

196 (A) on a tax rate;

197 (B) on a boundary;

198 (C) on a taxing jurisdiction; or

199 (D) in the taxability matrix the commission provides in accordance with the agreement.

200 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
201 Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment
202 if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance
203 on incorrect data provided by the commission is as a result of conduct that is:

204 (i) fraudulent;

205 (ii) intentional; or

206 (iii) willful.

207 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
208 not liable for a tax or interest under Section 59-1-402 for failure to pay a sales and use tax due
209 under this part or an underpayment if:

210 (a) the purchaser's seller or certified service provider relies on:

211 (i) incorrect data provided by the commission:

212 (A) on a tax rate;

213 (B) on a boundary; or

214 (C) on a taxing jurisdiction; or
215 (ii) an erroneous classification by the commission:
216 (A) in the taxability matrix the commission provides in accordance with the agreement;
217 and
218 (B) with respect to a term in the library of definitions, if that term is listed as taxable or
219 exempt, included in or excluded from "sales price," or included in or excluded from a
220 definition; or
221 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
222 accordance with Section 59-12-107.1, relies on:
223 (i) incorrect data provided by the commission;
224 (A) on a tax rate;
225 (B) on a boundary; or
226 (C) on a taxing jurisdiction; or
227 (ii) an erroneous classification by the commission:
228 (A) in the taxability matrix the commission provides in accordance with the agreement;
229 and
230 (B) with respect to a term in the library of definitions, if that term is listed as taxable or
231 exempt, included in or excluded from "sales price," or included in or excluded from a
232 definition.
233 Section 7. **Effective date.**
234 This bill takes effect on July 1, 2012.

Legislative Review Note
as of 11-8-11 1:14 PM

Office of Legislative Research and General Counsel